

## REMARKS

Claims 1-5, 7, 8 10-13, 15-18 and 20-22 are pending and stand rejected. Claim is being added. Therefore, claims 1-5, 7, 8 10-13, 15-18 and 20-23 will be pending after entry of this amendment.

### Rejection Under 35 U.S.C. §103

A. Claims 1, 5, 7, 8, 12 and 17 were rejected as being unpatentable under 35 U.S.C. §103 over Chew, *et al.* in view of Brooks.

These claims recite a seat back for a wheelchair that has a shell with a back panel and two adjustable wings. A cushion is attached to the shell and has a body which stretches and contracts to conform to alteration of the curvature of the shell. The body of the cushion is encased in a cover of stretchable material.

The Chew *et al.* patent drawings do not show a cushion and the text briefly mentions that the back member of its seat is covered with a compressible foam and an outer covering, (column 2, lines 19-20 and again at column 3, lines 46-48). That description of a cushion is so sketchy, it fails to suggest a cover of stretchable material as in the pending claims. The decision of the Board of Patent Appeals and Interferences concurred with that analysis of the teaching in Chew *et al.*

As a result the new grounds of rejection cite the Brooks patent as allegedly teaching stretchable material for a seat cushion cover. However, Brooks does not relate to an cushion for an adjustable seat, quite the contrary as the essence of this patent is a method for making a cushion that is custom fitted to the body of a particular wheelchair user. The stretchable cover material is required for the molding process that is used. Figure 4 shows

the mold 62 with an open top across which the cover material 48 is attached (column 7, lines 38-47). Then a foaming polyurethane mixture is injected into the mold box (column 6, lines 48-56) and the intended wheelchair user sits on the cover material 48 and mold as shown in Figure 3. The stretchable cover material is necessary to the molding process as:

The laminated upholstery fabric is advantageously stretched in order to store tensile forces or stresses in the elastic materials of the fabric; and these tensile forces establish mild resistance to the expansion of the foam in order to promote rupture of the surface cells of the foam upon the expanding foam material encountering the fabric. The cells, thus broken, form a polyurethane liquid layer that cures to an integral skin over the underlying foamaceous substrate, and this skin imparts the basic strength to the foam component. Stretching of the upholstery fabric 48 over the mold box also minimizes external wrinkles in the surface of the finished cushion thereby providing a smooth, attractive part. (column 7, lines 48-60).

Therefore Brooks teaches the need to use stretchable cover material in order to properly mold a custom seat cushion to conform to the shape of the buttocks of a specific wheelchair user. Nothing in this reference suggests the use of a stretchable cover with a cushion of the type briefly mentioned in the Chew *et al.*

In fact the teachings of the two references are at odds to each other. Chew *et al.* teaches a standard wheelchair seat that can be adjusted to accommodate users of different shapes. On the other hand, Brooks teaches custom molding a wheelchair seat to conform to the shape of only one person and then nor requiring any adjustment.

Furthermore, the stretchable material in Brooks only extends over the upper portion of the cushion and does not encase the body of the cushion as stated in these claims. In fact, the mold becomes part of the finished cushion (column 6, lines 27-30).

Nothing suggests using a stretchable, cover required by Brooks custom molding process with a cushion for the adjustable seat in Chew *et al.* As a consequence, claims 1, 5, 7, 8 12 and 17 are not obvious under 35 U.S.C. §103.

**B.** Claims 2-4, 13, 15, 16, 18 and 20-22 were rejected as being unpatentable under 35 U.S.C. § 103 over Chew, *et al.* in view of Brooks and further in view of Stulik.

The Stulik patent also fails to suggest a cover of stretchable material for the seat cushion as acknowledged in the previous decision (pages 12-13) of the Board of Patent Appeals and Interferences in this application. Therefore, the addition of Stulik fails to cure the deficiency in the combined teachings of Chew, *et al.* and Brooks noted above regarding the non-obviousness of a cover of stretchable material.

Claims 2-4, 13, 15, and 16 are patentable for the reasons stated regarding their respective base independent claim 1 or 12.

Independent claim 18 and its dependent claims 20-22 are patentable for similar reasons.

**C.** Claims 10 and 11 were rejected as being unpatentable under 35 U.S.C. § 103 over Chew, *et al.* in view of Dinsmoor, *et al.*

These claims now depend from new claim 23 which in turn depends from claim 1. As discussed previously herein, claim 1 is patentable as the combination of teachings from Chew, *et al.* and Brooks fails to suggest a wheelchair seat cushion encased in a cover of stretchable material. Although Dinsmoor, *et al.* casually mentions that its cushion 100 has a cover, nowhere is that cover described as being stretchable. Thus the combination of the teachings from this third reference still does not suggest the cover recited in Claim 1.

Therefore the amendment to claims 10 and 11 renders this rejection moot.

## Conclusion

In view of these distinctions between the subject matter of the present claims and teachings of the cited references, reconsideration and allowance of the present application are requested.

Respectfully submitted,  
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